

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

704 TITLEIST LANE, YAKIMA,
WASHINGTON, TOGETHER
WITH ALL APPURTENANCES,
FIXTURES, ATTACHMENTS,
AND IMPROVEMENTS
THERE TO AND THEREUPON,

Defendant.

CV-06-3077-LRS

Final Order of Forfeiture

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem, that the Defendant real property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper pursuant to 28 U.S.C. § 1395.

The defendant property consists of real property located at 704 Titleist Lane, Yakima, Washington, and is legally described as follows:

Lot 2 of Short Plat 79-263, recorded under Auditor's File No. 2565541.

Together with all appurtenances, fixtures, attachments, and improvements thereto and thereupon.

SUBJECT to any easements, rights of way, reservations and/or exceptions, and actions of record.

Auditor's Parcel Number: 191322-44403.

1 Real property records and a title report show that the property is owned by
2 Guillermina Alejo and Enrique Alejo, wife and husband, subject to a Deed of Trust
3 between Homecomings Financial Network, LLC, Lender, and Guillermina Alejo and
4 Enrique Alejo, wife and husband, Borrowers.

5 On September 12, 2006, Enrique Alejo and Guillermina Alejo were personally
6 served with copies of the Verified Complaint for Forfeiture In Rem, Notice of
7 Complaint for Forfeiture, and Lis Pendens in the above-entitled matter, as evidenced
8 by the United States Marshals Service's forms USM-285 filed with the Court on
9 September 15, 2006. On September 29, 2006, Claimant, Guillermina Alejo filed a
10 verified claim to the defendant property. On October 10, 2006, Attorney Jerry Talbott
11 filed an unverified claim on behalf of Claimant, Enrique Alejo. To date, neither of
12 the Alejos have filed an answer to the complaint.

13 On September 12, 2006, the United States Marshals Service posted copies of
14 the Verified Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and
15 Lis Pendens in the above-entitled matter on the property located at 704 Titleist Lane,
16 Yakima, Washington, as evidenced by the USM-285 form filed with the Court on
17 September 15, 2006.

18 The Notice of Complaint was published on September 14, 21, and 28, 2006, in
19 the Daily Sun News, a newspaper of general circulation in Yakima County,
20 Washington, as evidenced by the USM-285 form and attached Affidavit of
21 Publication filed with the Court on October 2, 2006. Rule C of the Supplemental
22 Rules for Certain Admiralty and Maritime Claims, Fed. R. Civ. P., and 18 U.S.C. §
23 983(a)(4)(A), require that claimants file a claim within thirty (30) days after final date
24 of publication of the Notice of Complaint for Forfeiture, or within thirty (30) days
25 after service of the complaint, whichever occurs first. At the latest this 30-day period
26 expired on October 30, 2006.

1 On October 12, 2006, the Court entered an order staying this civil case until the
2 resolution of the related criminal matters.

3 On August 8, 2007, Guillermina Alejo and Enrique Alejo entered into plea
4 agreements in the related criminal matters, Court Case Nos. CR-06-2047-FVS-1 and
5 2. In said plea agreements, the Alejos agreed to the forfeiture of the Defendant real
6 property.

7 On October 4, 2007, Guillermina Alejo and Enrique Alejo were sentenced in
8 the criminal matters.

9 On August 21, 2007, Homecomings Financial LLC (hereafter "Homecomings")
10 filed a Verified Statement of Interest. On September 11, 2007, Homecomings filed
11 an Answer to the complaint. On October 9, 2007, the United States and
12 Homecomings filed an Expedited Settlement Agreement.

13 On October 9, 2007, the United States and Claimants, Guillermina Alejo and
14 Enrique Alejo each filed a separate Stipulation for Order of Forfeiture and Settlement
15 Agreement with regards to their claims to the defendant property.

16 In said stipulations, Claimants, Guillermina Alejo and Enrique Alejo agreed to
17 withdraw their claims to the Defendant real property located at 704 Titleist Lane, in
18 Yakima, Washington, and to the entry of a final order of forfeiture of the Defendant
19 real property without further notice or presentment of said order.

20 It appearing to the Court that the interests of Guillermina Alejo and Enrique
21 Alejo, have been resolved through the filing of the Stipulations for Order of
22 Forfeiture;

23 It also appearing that the interest of Claimant, Homecomings, has been
24 resolved through the entry of an Expedited Settlement Agreement; and,

25 It further appearing to the Court that no other claims have been made to the
26 Defendant property;

1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
2 Defendant real property located at 704 Titleist Lane, in Yakima, Washington, is
3 hereby forfeited to the United States of America, and no right, title, or interest shall
4 exist in any other person.

5 IT IS FURTHER ORDERED that the United States Marshals Service shall
6 physically seize and take custody of the subject property, immediately evicting any
7 occupants or tenants therein.

8 IT IS FURTHER ORDERED, pursuant to the Expedited Settlement Agreement
9 filed by the United States and Claimant, Homecomings, that upon sale of the
10 Defendant real property, the United States Marshals Service shall pay Claimant,
11 Homecomings, the following amounts:

12 a. All unpaid principal due to Homecomings, in the amount
13 of \$147,797.79, as of October 2, 2007, pursuant to a Deed of Trust dated December
14 3, 2001, originally in favor of Homecomings Financial Network, Inc., and recorded
15 on December 10, 2001, in the official records of the Yakima County Assessor's
16 Office, under Recording Number 7247587, securing the Promissory Note dated
17 December 3, 2001.

18 b. All unpaid interest, which totaled \$1,673.62 through October 4, 2007,
19 and additional interest calculated at the base contractual rate (not the default rate)
20 under the above mortgage instrument assessed at \$25.81 per diem, from October 5,
21 2007, until the date of payment.

22 c. Recording fees of \$52.00 for recording of reconveyance
23 documents, if incurred by Homecomings.

24 d. Any real estate taxes and/or casualty insurance premiums
25 advanced by Homecomings, or which are advanced after the date of this Agreement
26 with the consent of the United States.
27
28

1 IT IS FURTHER ORDERED that the forfeited real property shall be disposed
2 of in accordance with law by the United States Marshals Service.

3 DATED this 24th day of October, 2007.

4
5 *s/Lonny R. Suko*

6 _____
7 Lonny R. Suko
8 United States District Judge

9 Presented by:

10 James A. McDevitt
11 United States Attorney

12 s/Jared C. Kimball

13 Jared C. Kimball
14 Assistant United States Attorney
15
16
17
18
19
20
21
22
23
24
25
26
27
28